THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

Date: 07—11—2005

W.P. Nos. 23507, 23508 and 23509 of 2005

Between:

M/s. FCB – KCP Limited,

Macherla, rep. by its

Asst. General Manager Mr. T.V. Srinivassan

…petitioner.

a n d

The Additional Commissioner (CT) (Legal),

Office of the Commissioner of Commercial Taxes,

Andhra Pradesh and others.

…Respondents.

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

COMMON ORDER : (per Sri S. Ananda Reddy, J)

These writ petitions are filed by the petitioner-company aggrieved by the order passed by the 1st respondent – Additional Commissioner (CT), under which the request for stay of recovery by the petitioner for the assessment years 1997-98, 98-99 and 99-2000 was rejected.

Sri S.R. Ashok, the learned senior counsel appearing for the petitioner, assailing the said impugned order, strenuously contended that the petitioner had paid the tax with reference to the goods supplied by the petitioner in terms of the agreement that it had entered with the purchaser; therefore, the ownership of the goods passed on the moment the goods were delivered to the transporter or the L.R. Receipts were sent to the purchaser. He further contended that the petitioner has already paid CST with reference to the inter-State turnover and turnover tax with reference to the local purchases and therefore there are no justifiable grounds for levying tax again on the ground that the new asset was sold at the factory premises where certain assemblings have been effected and therefore the 1st respondent was not justified in rejecting the stay petitions pending disposal of the appeals before the Tribunal.

The learned senior counsel also contended that the petitioner-company paid the taxes in view of the acceptance of the petitioner's claim for the earlier years and therefore the balance of

convenience is to grant stay of collection of the tax as per the revised orders passed by the Deputy Commissioner.

On the other hand, learned special standing counsel appearing on behalf of the respondents opposed the stay of collection of the disputes taxes and contended that the 1st respondent, having considered all the aspects, rightly rejected the request for grant of stay and therefore there are no merits in these writ petitions.

Heard both sides at length.

Having regard to the facts and circumstances, we are not persuaded to grant any interim orders at this stage, as the matters are pending before the Tribunal for disposal of the appeals. *Prima facie,* we are not inclined to grant any interim order with reference to the stay of collection of the disputed tax.

In the circumstances, these writ petitions are dismissed.

However, the appellate Tribunal is directed to dispose of the appeals expeditiously, preferably within a period of three months from the date of receipt of a copy of this order.

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B. Sudershan Reddy, J.

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S. Ananda Reddy, J.

Date: 07—11—2005.

MVB.